

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Carl C. & Phyllis S. Rose)
Map 143-02-0-A, Parcel 74.00) Davidson County
Residential Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$100,500	\$377,300	\$477,800	\$119,450

An Appeal has been filed on behalf of the property owner with the State Board of Equalization.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on February 8, 2007, at the Davidson County Property Assessor's Office. Present at the hearing was Carl C. Rose, the taxpayer who represented himself and Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject property consists of a single family residence located at 629 Harpeth Trace Drive in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination **to show reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*Emphasis added*).

Tenn. Code Ann. § 67-5-1412 (e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and **owners of property are charged with knowledge of them.** It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due **to illness or other circumstances beyond the taxpayer's control.** (*Emphasis added*) *Associated Pipeline Contractors Inc.*, Williamson County Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). See also *John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993).

Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization and then to the State Board of Equalization in a timely fashion. It is the taxpayer's burden to prove that he is entitled to the requested relief.

It is undisputed in this case that the current appellants purchased the property on February 27, 2006. The Notice of Assessed Value Classification and Assessment would have been mailed to Peggy Kelly, owner of the subject property as of January 1, 2006. Ms. Kelly¹ or her representative failed to give any notices to the current taxpayers. The current taxpayers/appellants are the real parties in interest as it is their property that is the subject of this appeal. *Appeal of Vivian & Russ Ragsdale, Davidson County Tax Year 2001*, Assessment Appeals Commission, Tennessee State Board of Equalization, August 13, 2003; finding reasonable cause exist in situations where notice was sent to *prior* owners, the assessment change notice did not come to the Ragsdale's' attention at all. The administrative judge determined that as the *real parties in interest* they were entitled to relief. The Commissions' rationale in determining that reasonable cause exist to excuse the late appeal to the State Board hinges on:

. . . it is apparent that no effective notice of the new assessment was sent to those **most interested in receiving it.** This is not the fault of the assessor, of course, but it is a circumstance we cannot ignore in determining whether the taxpayer has been afforded reasonable opportunity to appeal the new assessment (emphasis added)

The *Ragsdale* decision was appealed to Chancery Court by the Metro. Government of Nashville and Davidson County (Case No. 04-1811-IV), the Assessment Appeals Commission's decision was affirmed on April 18, 2006. Therefore, the current status of the law establishes "reasonable cause" for taxpayers in the Rose' position.

ORDER

Based on the circumstances of this case and the previous ruling in *Ragsdale* by the Assessment Appeals Commission for the Sate Board of Equalization the administrative

¹ Mr. Rose believes that Ms. Peggy Kelly's daughter, who had power of attorney, filed the appeals in this matter.

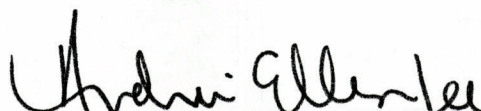
judge finds that "reasonable cause" exists for the taxpayer's failure to file before the County Board of Equalization. An Order will be sent setting this matter for a further hearing on the issue of value.

Pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301—325, T.C.A. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. T.C.A. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
2. A party may petition for reconsideration of this decision and order pursuant to T.C.A. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to T.C.A. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

Entered on this the 21st day of February , 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Carl C. & Phyllis S. Rose
Jo Ann North, Property Assessor